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COUNSEL

**BEFORE THE
FEDERAL ELECTION COMMISSION**

2008 SEP 15 P 1:58

Walter Salganik

Buffalo Grove, IL 60089

Complainant,

v.

**Kirk for Congress
P.O. Box 7
Winnetka, IL 60093**

MUR # 6071

Respondent.

COMPLAINT

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Kirk for Congress ("Respondent") for violating 2 U.S.C. § 441d, as described below.

A. FACTS

Mark Steven Kirk is a Member of Congress from the 10th District of Illinois. He is currently running for re-election to the United States House of Representatives.

On or about August 28, 2008, Complainant received an electronic mail that had been sent by Respondent. Attached to the email was a flier that read:

Fall Canvass Positions. Congressman Mark Kirk. 10th District of Illinois. Fall Voter Outreach Program. Looking to get involved in the upcoming Congressional Race? Come join Kirk for Congress as a member of our Fall Canvass team. Earn \$195 for your efforts, which include walking the precincts of your community, interacting with voters, and distributing information related to the election on November 4th. Bring your friends and earn an extra \$20 for every person that signs up! All interested persons should contact Vitaly at or 847-513-9353.

See Attachment A.

On information and belief, Respondent alleges that this flier was distributed, by email, by mail, or by both, to over 500 recipients.

B. LEGAL ARGUMENT: RESPONDENT HAS ISSUED A PUBLIC COMMUNICATION WITHOUT THE PROPER DISCLAIMER

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The FECA provides that "[w]henver a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising," the communication must contain a proper disclaimer identifying who paid for the communication. 2 U.S.C. § 441d(a). The Commission's regulations require that the disclaimer be used on, *inter alia*, "[a]ll public communications made by a political committee" and "electronic mail of more than 500 substantially similar communications when sent by a political committee." 11 C.F.R. § 110.11(a)(1). "Public communications" include "mass mailings," which are defined as "a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period." 2 U.S.C. § 431(22); 11 C.F.R. §§ 100.26-27.

The FEC's regulations detail the required contents of each disclaimer. 11 C.F.R. § 110.11. "If the communication, including any solicitation, is paid for and authorized by a candidate, an authorized committee of a candidate, or an agent of either of the foregoing, the disclaimer must clearly state that the communication has been paid for by the authorized political committee" 11 C.F.R. § 110.11(b)(1). The regulations also require that a disclaimer be "presented in a clear and conspicuous manner, to give the reader . . . adequate notice of the identity of the person or committee that paid for . . . the communication." 11 C.F.R. § 110.11(c)(1). On printed communications, the disclaimer must (1) "be of sufficient type size to be clearly readable"; (2) "contained in a printed box set apart from the other contents of the communication"; and (3) "printed with a reasonable degree of color contrast between the background and the printed statement." 11 C.F.R. § 110.11(c)(2).

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The Kirk for Congress flier violates § 441d. On information and belief, the flier was distributed, both by email and by mail, to over 500 recipients. Thus it triggers the disclaimer requirements of 2 U.S.C. § 441d.

The flier bears no disclaimer indicating that it was paid for by Kirk for Congress. By distributing the flier without the proper disclaimer, Respondent has violated 2 U.S.C. § 441d.

C. REQUESTED ACTION

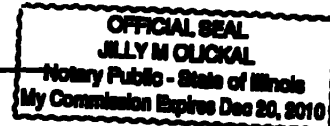
As we have shown, the Respondents have violated the Federal Election Campaign Act. Accordingly, we request that they be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

Walter D. Salganik

SUBSCRIBED AND SWORN to before me this 10th day of September, 2008.

Jilly M. Olickal
Notary Public



My Commission Expires:

Dec 20, 2010

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Kirk

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Looking to get involved in the upcoming Congressional Race?

**All interested persons should contact Vitaly at
or 847-513-9353**